

Rejections under 35 U.S.C. §§ 102 and 103

The Examiner rejected claims 76-77, 79-80, 84-85, 89-90, 94-95, 99-100, 104-105, 109-110, 114-115, 122-133 and 135 under 35 U.S.C. § 102(e) as allegedly being anticipated by Eriksson *et al.*, U.S. Patent No. 5,928,939. The Examiner also rejected claims 119-120 and 134 under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 5,928,939. Applicants respectfully traverse these rejections.

Applicants point out that the filing date of U.S. Patent No. 5,928,939 is December 6, 1995, which is after the filing date of the present application. Additionally, U.S. Patent No. 5,928,939 is a continuation-in-part of U.S. Appl. No. 08/469,427, filed June 6, 1995, which is a continuation-in-part of U.S. Appl. No. 08/397,651, filed March 1, 1995.

U.S. Appl. No. 08/469,427 was filed the same day as the present application. Applicants note that 35 U.S.C. § 102(e) refers to description in a patent application granted or an application for patent by another filed in the United States *before* the invention thereof by the applicant for patent. Since Appl. No. 08/469,427 was filed the same day as the captioned application, Applicants assert that its contents cannot constitute prior art to this application as a matter of law. Thus, only the content of U.S. Appl. No. 08/397,651 may potentially be available as prior art against the pending claims.

Applicants enclose herewith a copy of U.S. Appl. No. 08/397,651. The Examiner states that "Eriksson et al. teach a polypeptides [sic] of SEQ ID NO:11 and 15 which share a contiguous stretch of 119 and 149 identical amino acids, respectively, with the polypeptide of SEQ ID NO:2 of the instant application." Paper No. 26, page 3. SEQ ID NOs:11 and 15 of Eriksson *et al.* are not disclosed in U.S. Appl. No. 08/397,651. Accordingly, the present claims are not anticipated by, nor obvious over, Eriksson *et al.* Withdrawal of these rejections is respectfully requested.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Andrea Jo Kamage
Agent for Applicants
Registration No. 43,703

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1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600